

Court of Appeals, State of Michigan

ORDER

People of MI v Steven Hare

Docket No. 302236

LC No. 10-010034

Cynthia Diane Stephens
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the January 7, 2011, order of the Wayne Circuit Court granting defendant's motion to quash the information hereby is REVERSED. The district court did not abuse its discretion in binding over defendant on the assault with intent to murder charges because the record contained evidence demonstrating probable cause for the district court to believe that the charged offense was committed. The prosecution presented evidence regarding the elements of assault with intent to murder: (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). As to the intent element, the requisite intent to kill may be proven by inference from the facts in evidence. *Id.* The record reflects that defendant pointed a gun at the victim and fired from a close range. The intentional discharge of a firearm at someone within close range, done without justification or excuse, is sufficient to prove assault with intent to commit murder. *People v Johnson*, 54 Mich App 303, 304; 220 NW2d 705 (1974). Accordingly, based on the record evidence before this Court, it reasonably could be inferred that defendant intended to kill. To the extent that the record contains conflicting evidence regarding defendant's intent, where credible evidence exists to support and negate the elements of a crime, a jury must decide the resulting questions of fact. *People v Grayer*, 235 Mich App 737, 744; 599 NW2d 527 (1999). The Court therefore reinstates the charges of assault with intent to murder and REMANDS this case for further proceedings consistent with this order.

The motion for stay is DENIED.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 03 2011

Date


Chief Clerk